

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

ANDREW GUYMON BECKHAM,)
Plaintiff,)
vs.)
STEPHANIE BURKE et al.,)
Defendants.)

No. CIV-05-1477-W

FILED
MAY 24 2006
ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY BS DEPUTY

ORDER

On January 12, 2006, United States Magistrate Judge Bana Roberts ordered plaintiff Andrew Guymon Beckham to cure certain deficiencies in the Motion for Leave to Proceed in Forma Pauperis he had submitted. Because Beckham did not so do within the allotted time, Magistrate Judge Roberts on February 17, 2006, issued a Report and Recommendation and recommended that the Court dismiss Beckham's complaint without prejudice.

The United States Postal Service was unable to deliver Magistrate Judge Roberts' Order dated January 12, 2006, as well as her Report and Recommendation because Beckham was no longer incarcerated in the Kay County Jail in Newkirk, Oklahoma, Beckham's last known address. In a letter dated February 22, 2006, Beckham inquired about the status of his case and advised of his efforts to comply with an earlier Order issued by Magistrate Judge Roberts. The letter reflected Beckham's new address.

Under the circumstances and because Beckham had demonstrated some diligence in attempting to correct the deficiencies noted by Magistrate Judge Roberts, the Court directed the Clerk of the Court to remail to Beckham a copy of Magistrate Judge Roberts'

Order of January 12, 2006, a copy of the Report and Recommendation issued on February 17, 2006, and all necessary forms and ordered Beckham to cure the deficiencies indicated by Magistrate Judge Roberts in her Order and in her Report and Recommendation.

Beckham thereafter submitted a Motion for Leave to Proceed in Forma Pauperis dated March 24, 2006, as well as a copy of his institutional account and on March 29, 2006, the Court re-referred the matter to Magistrate Judge Roberts for further proceedings.

On March 30, 2006, Magistrate Judge Roberts granted Beckham's Motion for Leave to Proceed in Forma Pauperis to the extent that Beckham was permitted to proceed without full prepayment of the filing fee, but she advised Beckham that he would be required to pay the full filing fee. He was then ordered to pay an initial partial filing fee of \$1.09 on or before April 19, 2006, and he was cautioned that unless by that date he had either paid that amount or shown cause in writing for his failure to pay, the action would be subject to dismissal without prejudice.

On April 28, 2006, Magistrate Judge Roberts issued a second Report and Recommendation and again recommended that the Court dismiss this matter without prejudice. Beckham was advised of his right to object to the Report and Recommendation, but he has not done so without the allotted time.

Upon review of the record, the Court concurs with Magistrate Judge Roberts' suggested disposition of this matter. Beckham has neither paid the partial filing fee nor shown cause in writing why he failed to do so as ordered by Magistrate Judge Roberts on March 30, 2006.

Accordingly, the Court

(1) ADOPTS the Report and Recommendation issued on April 28, 2006; and

(2) DISMISSES this matter without prejudice to refiling.

ENTERED this 24th day of May, 2006.



LEE R. WEST
UNITED STATES DISTRICT JUDGE